

Chapter 7

Employee Licensing Regulation

Regulation # R400-04:GC-07

Chapter 7 Employee Licensing Regulation

Section 1. Purpose; Authority

1-1. *Purpose.* It is the purpose of this Chapter to assist:

- a. Define the standards and processes to be followed by prospective employees and the Gaming Commission to make determinations about whether to grant a gaming license to prospective employees in accordance with applicable federal and tribal laws; and
- b. Assist the Gaming Enterprise and employee licensees to understand the licensure process that Tribal law imposes upon persons that seek a license to be employed by a gaming enterprise.

1-2. *Authority.* These rules and regulations are issued under and pursuant to the authority of the Gaming Ordinance, # 02-400-01, Gaming Commission Ordinance, # 04-400-04, and Commissions Ordinance, # 01-100-06.

Section 2. Definitions

2-1. *General.* For purposes of this regulation, certain terms are defined in this section. The word “shall” is always mandatory and not merely advisory. Unless defined elsewhere, terms defined in this Chapter and the Gaming Ordinance and Gaming Commission Ordinance are defined for the purposes of all Gaming Commission Regulations.

2-2. *Applicant* means the person seeking a license from the Gaming Commission that authorizes the person to be employed by a gaming enterprise or the Gaming Commission. “Applicant” also encompasses re-applicants.

2-3. *Gaming Commission Agents* means officials or employees of the Gaming Commission, including the Commissioners, Director, Compliance personnel, Surveillance personnel, and Administrative Staff of the Gaming Commission.

2-4. *GED* is an acronym for the tests of General Educational Development which are designed to measure academic skills and knowledge in core content areas that are learned during four years of high school.

Section 3. Construction and Application of the Rules

3-1. *Construction and Amendments.*

- a. These rules shall be liberally construed to permit the Gaming Commission to effectively carry out its statutory functions and secure a just and expeditious determination of issues properly presented to the Gaming Commission.
- b. These rules may be amended by the Gaming Commission from time to time in accordance with the provisions of the Gaming Ordinance, the Gaming Commission Ordinance and any regulation promulgated by the Gaming Commission.

3-2. *Severability, Preemption, Adoption and Repealer.*

- a. If any clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion of these rules or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of these rules or the application of such portion held invalid to any other person or circumstances,

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but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion thereof directly involved in such holding or to the person or circumstances therein involved.

b. The Gaming Commission shall have jurisdiction over all matters delegated to it or within the scope of its powers under the provisions of the Gaming Ordinance, Gaming Commission Ordinance and these rules.

c. Regulation Chapter 7 – Restrictions on Employment of Gaming Commission Personnel, adopted May 11, 2002 is hereby repealed upon adoption of this regulation.

d. This regulation is adopted pursuant to resolution #GC05-1004-70.

Section 4. Classification of Employee Licenses.

4-1. *Non-Gaming Employee License.* All employees of a gaming enterprise who are under the age of (21) shall obtain a non-gaming employee license. Employees under the age of (21) shall not be eligible to be licensed for any employment position which involves job responsibilities that may require the employee to be present on the gaming floor in the performance of their duties

4-2. *Gaming Employee License.* All employees of a gaming enterprise who are age twenty-one (21) or older shall be required to obtain a gaming employee license. It is the determination of the Gaming Commission that all employees over the age twenty-one (21) be treated as key employees or primary management officials for purposes of licensing.

4-3. *Gaming Commission Employees.* All employees of the Gaming Commission shall be required to be licensed in accordance with the standard applied to Gaming Employees; provided that Gaming Commission employees shall not be considered gaming employees for any purpose.

4-4. *Temporary License.* Persons determined to be eligible for a non-gaming and gaming employee license may receive a temporary license in accordance with procedures and limitations described in section 9-3.

Section 5. General Rights and Duties of Applicants.

5-1. *No Property Interest or Promise of Employment.* The consideration of the issuance of a license nor the issuance of a license creates or grants a property interest or due process rights to the applicant or licensee that are specifically granted by the Tribe's laws or these regulations. The granting of a license by the Gaming Commission does not constitute a commitment on behalf of the Gaming Commission or any other party to hire or continue to employ the licensee.

5-2. *Duties of Applicants and Licensees.* Applicants are required to provide or perform the following:

a. *Responsibility to establish qualifications.* An applicant for a license governed by these regulations is seeking the granting of a privilege. The burden of proving qualifications to receive a license is on the applicant. It shall be the further responsibility and continuing duty of each applicant/licensee to produce such information, documentation and assurances as may be required to demonstrate by clear and convincing evidence his/her qualifications to hold a license in accordance with the Gaming Ordinance, the Compact and Gaming Commission regulations. No license shall be granted to any applicant who fails to prove his/her qualifications.

b. *Duty to disclose and cooperate.* It shall be the responsibility and continuing duty of each applicant/licensee to promptly furnish all information, documentation, assurances, consents, waivers, fingerprint impressions, photographs, or other materials required or requested by the Gaming Commission and to cooperate with the Gaming Commission in the performance of its duties. Failure to furnish same after receipt of request shall

constitute grounds for delaying consideration or denial of the application.

c. *Licensees continuing duty to promptly furnish information.* Licensees shall provide information within (5) days of an occurrence or event in their life which constitutes a material change (i.e. arrest or criminal charges, address change) in the information provided in their application.. Failure to report information within five (5) days or refusing to comply with a formal request for information, evidence or testimony shall be a basis for suspension, or revocation of a license.

d. *Authority to seize, revoke and suspend license.* The Gaming Commission may seize, revoke or suspend any license issued under the these regulations in accordance with the procedures prescribed in the Gaming Ordinance, the Gaming Commission Ordinance and Gaming Commission regulations.

e. *Waiver of liability for disclosure of information.* Applicants/licensees accept and assume the risks of any adverse public notice, embarrassment, criticism, or other action, as well as financial loss which may result from any licensing action. Applicants/licensees expressly waive any claims against the Gaming Commission, the Gaming Commission and its agents, and the Tribe as well as any entity or individual furnishing information in good faith to the Gaming Commission or its agents in any matter relating to licensing and the licensing process.

f. *Consent to examination of accounts and records.* Each applicant/licensee shall, in writing, consent to the examination of all accounts, bank accounts and records in his/her possession or under his/her control and shall authorize all third parties in possession or with control of such accounts or records to allow such examination thereof as may be deemed necessary by the Gaming Commission.

g. *Non-transferability of license.* All licenses shall be non-transferable and shall prohibit the licensee from transferring any rights or duties related to the license either directly or indirectly.

h. *Unauthorized Use of License.* Licensees are expressly prohibited from allowing any other person to use their license or badge which evidences a license for any purpose. Any unauthorized use of a licensee's license or badge may subject both the licensee and person using the badge to civil and criminal penalties, including suspension or revocation of a license.

i. *Licensing Period.* Any employee license issued in accordance to the Gaming Ordinance, other than a temporary license, shall be effective for a period of one year from the date of issuance and shall contain the licensee's photograph and shall state on its face the name of the employee, the gaming facility at which the employee is licensed to work, the type of license, the date that the license became effective and the date it expires. Employee licenses do not automatically renew and become invalid as of the date of expiration.

j. *Renewals.* It is the responsibility of holders of employee license to ensure that their license is valid at all time. Holders of an employee license shall file their renewal applications 60 days before their original license expires, including updating all information contained in the original application. Temporary licenses may be granted where the holder of a license has timely filed for renewal, but has not been reviewed by the regulatory agency. Employee licenses must be renewed annually. A holder of a license who fails to renew their license within the timeframe specified shall be assessed the following fines, unless defined otherwise by Gaming Commission Order:

1. \$25.00 – first offense

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2. \$50.00 – second offense
3. Revocation hearing before the Gaming Commission – third offense

A license shall not be granted to an employee who has been assessed a fine until such time that the fine is paid in full.

k. *Expired License.* A holder of a license who allows their license to expire shall be assessed the following reinstatement fees, unless defined otherwise by Gaming Commission Order:

1. \$50.00 – first offense
2. \$100.00 – second offense
3. Revocation hearing before the Gaming Commission – third offense

A license shall not be granted to an employee who has been assessed a reinstatement fee until such time that the fee is paid in full. An expired license will result in immediate removal from the gaming enterprise and the inability to work until such time that the license is renewed and the reinstatement fee is paid in full.

Section 6. Standards for License Eligibility.

6-1. Non-Gaming Employee Licenses.

a. *General.* An applicant for a non-gaming employee license may be approved upon a determination by the Gaming Commission that the individual will not create a risk of injury or loss to the person or property of guests of the gaming enterprise or the assets of the gaming enterprise and that the individual is not a threat to the effective regulation of gaming activities, including the absence of all disqualifying circumstances described in part b., below. In reaching its determination, the Gaming Commission will consider the criminal history, habits and reputation of the applicant in light of the particular position the applicant is applying for.

b. *Specific Disqualifying Circumstances.* An applicant shall not be eligible for a non-gaming employee license if the application or background investigation confirms that the applicant:

1. Is under the age of sixteen (16); or
2. Has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, or any offense involving theft, fraud, or misrepresentation; or
3. Has been convicted of or entered a plea of guilty or no contest to any offense, as defined in Section 10.08 of the Gaming Ordinance, or any criminal offense involving threats or acts of violence, which is not specified in (2.) within the immediately preceding three (3) years,; except if that person has been pardoned by the Governor of the State where the conviction occurred. If a tribal member, the Gaming Commission must determine that they have been rehabilitated and are not likely to engage in future criminal or offensive actions (this determination would be made through a hearing process); or
4. Murder, assault with intent to do bodily harm; home invasion; or stalking
5. Has any convictions related to sexual crimes or criminal sexual conduct where the perpetrator was an adult at the time the crime was committed, or was convicted as an adult, and/or is registered in any jurisdiction's list of sexual offenders; or
6. Has participated in organized crime or unlawful gambling; or
7. Has knowingly and willfully provided materially false and misleading statements or information to the Gaming Commission or has refused to respond to questions asked by the Gaming Commission; or

8. Is the subject of an active arrest warrant generated in a criminal proceeding; or
 9. Has failed to graduate from high school or failed to successfully obtain a GED except if the applicant is currently enrolled in high school maintaining regular attendance and a grade point average of 2.0 (C) or better.
- c. Persons holding non-gaming employee licenses will be required to apply for a gaming license and meet the eligibility requirements to hold a gaming license upon reaching the age of twenty-one (21).

6-2. *Gaming Employee Licenses.*

- a. *General.* An applicant for a gaming employee license may be approved upon a determination by the Gaming Commission, as provided in Sections 10.07 and 10.08 of the Gaming Ordinance, that employment of the person does not pose a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal activities, methods or practices in the conduct of gaming, including the absence of all disqualifying circumstances described in part b., below.
- b. *Specific Disqualifying Circumstances.* A applicant shall not be eligible for a gaming employee license if the application or background investigation confirm that the applicant:

1. Is member of the Tribal Council, the Tribal Ogema, a Judge or Appellate Judge on the Tribal Court, the Tribal Prosecutor or a Law Enforcement Officer of the Tribe; or
2. Is employed by the Gaming Commission and in a position that affords access to the internal operations of the Gaming Commission and is seeking a license as a primary management official or for a line position. A position that affords access to internal operations includes, but may not be limited to, Gaming Commissioners, Director, Compliance Officers, Surveillance Operators, Surveillance Supervisors, and Surveillance Technicians. Line positions, include but may not be limited to, those individuals that are described as or are members of dealers, soft count, hard count, count team supervisor, cashier, cashier supervisor, slot representatives, slot supervisor, slot technician and security officer; this prohibition shall not apply if the Gaming Commission has determined that the person's employment as a gaming enterprise employee does not pose an unreasonable risk to the effective regulation of gaming under paragraph (c); or
3. Is under the age of 21; or
4. Has been convicted of or entered a plea of guilty or no contest to a gambling related offense or any offense involving fraud, theft or misrepresentation as defined in Section 10.08(g) of the Gaming Ordinance; or
5. Has been convicted of or entered a plea of guilty or no contest to "any offense", as defined in Section 10.08(h) of the Gaming Ordinance, within the immediately preceding five years; this provision shall not apply if that person has been pardoned by the Governor of the State where the conviction occurred or, if a tribal member, has been determined by the Gaming Commission to be a person who is not likely again to engage in any offensive or criminal course of conduct and the public good does not require that the applicant be denied a license; or
6. Is on parole following release from incarceration and has not yet successfully completed one full year (365 days) of parole; or
7. Is determined to have participated in organized crime or unlawful gambling activities or enterprises, including business or financial arrangements incidental to unlawful gambling; or

8. Has knowingly and willfully provided materially false and misleading statements or information to the Gaming Commission or has refused to respond to questions asked by the Gaming Commission; or

9. Is the subject of an active arrest warrant generated in a criminal proceeding.

c. *Eligibility of Current and Former Gaming Commission Employees.* In most circumstances, applicants shall not be eligible for gaming employee licenses if the applicant is currently employed, or was employed, by the Gaming Commission within the (12) months preceding the applicant's application in a position that afforded the applicant access to internal operations of the Gaming Commission, as described in paragraph b (2), above. Individuals that are not eligible for licensure under this paragraph may seek an exception to these limitations by requesting a hearing from the Gaming Commission and providing sufficient mitigating reasons justifying the conclusion that they will not pose an unreasonable risk to the effective regulation of gaming activities for the Gaming Commission to make an exception to these regulations. Mitigating reasons include, but are not limited to; position held with the Gaming Commission, position sought at the Gaming Enterprise, length of time since the applicant was employed by the Gaming Commission, and safeguards preserving the integrity of the gaming regulatory process.

6-3. *Gaming Commission Employees.* Applicants for gaming employee licenses for purposes of employment with the Gaming Commission shall be reviewed and approved or denied in accord with the same criteria applied to determinations on gaming employee licenses.

Section 7. License Applications.

7-1. *Complete Application Required.* A prerequisite to the issuance of a non-gaming or gaming license to an individual is the receipt by the Gaming Commission of an application completed by the prospective licensee on the application form provided by the Gaming Commission together with all other required documents.

7-2. *Privacy Notice.* The following notice shall be placed at the beginning of the application form for employee licensees:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you in a primary management official or key employee position or non-gaming position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

7-3. *False Statement Notice.* The following notice shall be placed on the application form for employee licensees:

*A false statement on any part of your license application may be grounds for **denying a license or the suspension or revocation of a license.** Also, you may be punished by fine or*

imprisonment. (U.S. Code, title 18, section 1001).

7-4. *Non-Gaming Employee License Application.* Each applicant for a non-gaming employee license shall be required to complete an application for a non-gaming employee license on the form provided by the Gaming Commission which shall require the applicant to provide the following information:

- a. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, and all languages (spoken or written).
- b. Currently and for the previous (5) years: all business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
- c. The names and current addresses of at least (3) unrelated personal references, including (1) personal reference that was acquainted with the applicant during each period of residence listed under paragraph (b) of this subsection.
- d. Current business and residence telephone numbers.
- e. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit (including gaming related), the current status of the application, and whether or not such license or permit was granted.
- f. A list of all felony charges (past or pending) against the applicant, if any, and for each felony charge listed, the nature of the charge(s), the name and address of the court involved, and the date and disposition (i.e. dismissed; reduced to misdemeanor; guilty plea; no contest plea, conviction, deferred sentence, deferred prosecution and any other disposition).
- g. A list of all misdemeanor charges (past or pending) against the applicant, if any, (excluding traffic violations for which incarceration was not a possible punishment) and for each misdemeanor charge listed, the nature of the charge(s), the name and address of the court involved, and the date and disposition (i.e. dismissed; guilty plea; no contest plea; deferred sentence; deferred prosecution; conviction or any other disposition).
- h. The year the applicant attended and, if applicable, graduated from high school, the name and address of the high school attended or, if the applicant did not graduate from high school the date and place from which the applicant received his GED. If the applicant is still attending high school, the applicant must submit his/her most recent grade report or transcript.
- i. A photograph. Applicants may fulfill this requirement by submitting a photograph that accurately reflects the Applicant's appearance or by submitting a government issued identification which includes an image of the Applicant that accurately reflects the Applicant's appearance. Examples of government issued identification which includes photographs or images of the Applicant may include tribal identification, driver's licenses and passports.

7-5. *Gaming Employee License Application.* Each applicant for a gaming employee license, including persons applying for employment with the Gaming Commission, shall be required to complete an application for a gaming employee license on the form provided by the Gaming Commission which shall require the applicant to provide the following information:

- a. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, and all languages (spoken or written);
- b. Currently and for the previous (5) years:
 1. business and employment positions held,
 2. ownership interests in those businesses,

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3. business and residence addresses; and
4. drivers license numbers;
- c. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (b) of this subsection;
- d. Current business and residence telephone numbers;
- e. A description of any existing and previous gaming or other business relationships with any Indian tribe;
- f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- g. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, the current status of the application, and whether or not such license or permit was granted and current status.
- h. A list of all felony charges (past or pending) against the applicant, if any, and for each felony charge listed, the nature of the charge(s), the name and address of the court involved, and the date and disposition (i.e. dismissed; reduced to misdemeanor; guilty plea; no contest plea; conviction) if any.
- i. A list of all misdemeanor charges (past or pending) against the applicant, if any, (excluding traffic violations for which incarceration was not a possible punishment) and for each misdemeanor charge listed, the nature of the charge(s), the name and address of the court involved, and the date and disposition (i.e. dismissed; guilty plea; no contest plea; deferred sentence; deferred prosecution; conviction).
- j. The name and address of any licensing or regulatory agency with which the person has filed an application for a business or occupational license or permit, whether or not such license or permit was granted;
- k. Two current photographs which may include a photographic identification card, and consent to be photographed by a Gaming Commission agent;
- l. For all applications for licenses for principals and general managers, or primary management officials, a complete financial statement and/or income tax records showing all sources of income for the previous three (3) years, and assets, liabilities, and net worth as of the date of the application;
- m. A list of all professional or business licenses the applicant has applied for, whether or not those licenses were granted and current status, and the name, address and phone number of the regulatory agency involved;
- n. A sworn statement that neither the applicant nor any member of his immediate family has a past or current financial interest, other than a salary interest, in any gaming-related enterprise anywhere. If the applicant has any relative who has such a relationship, the applicant shall fully disclose his name and the nature of the relationship;
- o. Written permission giving the regulatory agency the right to investigate the applicant's background, including his criminal records, civil and criminal judgments and credit history;
- p. Each application shall be accompanied by a sworn statement that the applicant will submit to the jurisdiction of the Tribe and the Tribal Court, if employed;
- q. Any other information the regulatory agency deems relevant;
- r. Fingerprints obtained on fingerprint impression cards taken consistent with procedures adopted by the regulatory agency according to 25 C.F.R. 522.2(h);
- s. Whether the applicant is currently under investigation for any criminal offense and, if

so, the nature of the charges under investigation and the law enforcement agency conducting the investigation.

7-6. *Prompt Amendment of Application for New Information.* It shall be the duty of each license applicant to promptly file with the Gaming Commission, a written amendment to the application explaining any changed facts or circumstances whenever any material change of facts or circumstances shall occur with respect to any matter set forth in the application or other documents relating thereto. Any license applicant may be permitted to file any other amendment to the application at any time prior to final action thereon by the Gaming Commission.

7-7. *Fees.* The Gaming Commission may collect fees from applicants to defray the cost of processing and evaluating request for licenses by applicants. If fees are imposed, the Gaming Commission will promulgate and publish a fee schedule.

Section 8. Background Investigation Process.

8-1. *Verification of Completed Application.* Prior to accepting an application for a non-gaming employee or gaming employee license from an applicant, an agent of the Gaming Commission will review the application with the applicant to verify that all necessary information has been provided on the form. The Gaming Commission Agent shall ensure that the applicant fully understands his obligation to fully disclose the facts relative to any criminal history as required in parts f. and g. of section 7-4 (for non-gaming employee applicants) and parts h. and i. of section 7-5 (for gaming employee applicants).

8-2. *Steps to Complete Background Investigation.* A Gaming Commission Agent will conduct an investigation sufficient to make a determination under sections 6-1 and 6-2. In conducting a background investigation, Gaming Commission Agents shall keep confidential the identity of each person interviewed in the course of the investigation. The background investigation shall consist of at least the following:

- a. A Gaming Commission Agent shall contact each reference provided in the application and take other appropriate steps to verify the accuracy of the other information presented and prepare a report of their findings.
- b. The criminal background of each applicant for a license shall be investigated by obtaining information concerning the applicant from law enforcement where the applicant has resided and, for gaming employee license applicants, submitting impressions of the applicant's fingerprints, taken under Section 10.03(s), to the Federal Bureau of Investigation Criminal Information Center, and any other law enforcement agency(ies) that the Gaming Commission deems appropriate, requesting a criminal history report. The vital information which may be provided to identify the applicant may include: the applicant's full name, any other names used by the applicant, date and place of birth, citizenship, driver's license numbers, social security number, and a physical description.
- c. If the criminal history provided by applicant, or obtained in initial phase of the background investigation, identify incidents which may disqualify the applicant as a result of his habits, reputation or associations, the Gaming Commission Agent shall endeavor to obtain copies of police reports, court records or other information to determine specific details relative to such criminal offenses or charges.
- d. With respect to applicants for a Primary Management Official's application for a gaming employee license, the Gaming Commission Agent shall also investigate and verify the accuracy of financial information provided by the applicant by contacting banks, other financial institutions or other sources as deemed necessary. A credit bureau report on the applicant shall also be obtained.

- e. The Gaming Commission may contract with private, municipal, state, and/or federal investigation agencies to perform the required background and/or criminal history investigations.

Section 9. Action by the Gaming Commission; Suitability Determinations.

9-1. Action on Applications for Non-Gaming Employee Licenses.

- a. Upon receipt of a complete application for a non-gaming employee license, a Gaming Commission Agent shall review the application with the applicant and, if there is no information to indicate that the applicant does not qualify for licensure, the Gaming Commission Agent may approve a temporary license for the applicant. A temporary license approved under this section shall be valid for not more than 90 days.
- b. A Gaming Commission Agent shall review the application, and the results of background investigation to determine if the applicant qualifies for a non-gaming employee license pursuant to Section 6-1.
- c. Upon determination that an applicant is suitable a non-gaming license will be issued.
- d. If a Gaming Commission Agent denies any application for a non-gaming employee license the applicant's temporary license shall be seized if one was issued. A Gaming Commission Agent will notify the applicant that the application was denied and specify the reasons for the denial, including information concerning any criminal conviction(s), which prompted the denial. The notice of denial to the applicant shall also inform the applicant of their right to request a hearing with the Gaming Commission as provided in Article XII 12.02 of the Gaming Ordinance.
- e. If a license is not issued to an applicant, the Gaming Commission may forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

9-2. Action on Applications for Gaming Employee Licenses.

- a. Within 15 days a Gaming Commission Agent shall review the application, the results of background investigation, the criminal history reports, and financial report, if required, to determine if the applicant qualifies for a temporary license pursuant to Section 9-3.
- b. If a determination is made that an applicant qualifies, pursuant to section 6-2, for the issuance of a license the application may be approved on a preliminary basis and a temporary license may be issued to the applicant pursuant to Section 9-3. A temporary license shall be valid for not more than (90) days.
- c. Within seven (7) days after granting preliminary approval of a license application under part b. of this Section, an investigative report shall be prepared and forwarded to the National Indian Gaming Commission. The investigative report shall include the following:
 - 1. Steps taken in conducting a background investigation;
 - 2. Results obtained;
 - 3. Conclusions reached; and
 - 4. The basis for those conclusions.

The Gaming Commission shall submit, with the investigative report, a copy of the eligibility determination and notify the National Indian Gaming Commission of the Gaming Commission's intention to issue the applicant a license and request that the agency review the application and investigative report pursuant to IGRA.

- d. Final approval of a gaming license may only be given after:
 - 1. Receipt of the results from the Federal Bureau of Investigation criminal history check, based on the fingerprint impressions submitted, that confirm the applicant

does not have a criminal history that would disqualify them from licensure; and one of the following has occurred:

- i. Notice has been received from the National Indian Gaming Commission that it has no objection to the issuance of the license; or
 - ii. Thirty (30) days have elapsed since the National Indian Gaming Commission was notified of the Gaming Commission's intent to issue the license and the National Indian Gaming Commission has not responded; or
 - iii. The National Indian Gaming Commission timely objected to the issuance of the license, the Gaming Commission has reconsidered the application in light of the objections received and has determined that the applicant may be licensed notwithstanding those objections.
- e. The applicant shall be promptly notified that their application is approved and the license shall be issued. If a temporary license was previously issued, the effective date of the license shall be the date the temporary license was issued.
- f. If any application for a license is denied under this Section the temporary license shall be seized, if one was issued. The applicant shall be notified within seven (7) days that the application was denied and the reasons specified, including information concerning any criminal conviction(s), which prompted the denial with reference to the specific eligibility criteria described in Section 6-2. The notice to each applicant shall also inform the applicant of the applicant's right to request a hearing and appeal as provided in Article XII, Section 12.02 of the Gaming Ordinance.
- g. If a license is not issued to an applicant, the Gaming Commission:
1. Shall notify the National Indian Gaming Commission; and
 2. May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.
- h. The Gaming Commission shall retain applications and reports (if any) of background investigations for inspection by the National Indian Gaming Commission or its designees for no less than (3) years from the date of termination of employment.

9-3. *Temporary Licenses.* A Gaming Commission Agent may authorize the issuance of a temporary license for gaming employees under the following circumstances:

- a. The applicant has fully completed his renewal application and another other forms and provided any information and documents requested but the background investigation has not been completed; or
- b. The applicant has fully completed the application and fully disclosed documents and information requested by the Gaming Commission Agent and it appears that after review of the application that the applicant is likely to qualify for a license, except for the following:
 1. the criminal history results from the fingerprint impression sent to the Federal Bureau of Investigation, if necessary, have not been received; or
 2. 30 days have not elapsed since the investigative report and suitability determination were provided to the National Indian Gaming Commission.

Section 10. Re-application by Persons Denied License

10-1. *Re-application by applicant after denial or revocation of license.*

Except as provided in below, any person required to be licensed under the provisions of the Tribal Gaming Ordinance or regulations of the Gaming Commission whose license is either denied or

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revoked by the Gaming Commission on the basis of that individual's failure to satisfy the eligibility criteria of the Tribal Gaming Ordinance or Gaming Commission regulations, or due to a Gaming Commission finding that such person is disqualified under the criteria of the Gaming Ordinance or Gaming Commission regulations, or both, may not reapply for a license until twelve (12) months after notice of the denial or revocation. The prohibition on re-application shall not apply to persons who, prior to the expiration of twelve (12) months after notice of denial or revocation, have had an offense that was the sole basis for his license denial or revocation removed from his criminal record by executive pardon, court order, or operation of law.

10-2. *Re-Application for returning licensees.* Licensees that voluntarily terminate their employment or are involuntarily terminated by the gaming enterprise may, if subsequently offered a position with the gaming enterprise within one (1) year of termination, seek reinstatement of the license by updating their most recent license application. This process is only available to a licensee which, when they left the employ of the gaming enterprise, possessed a valid gaming license and did not subsequently lose the license through a license revocation proceeding. This process may not be used by a licensee to acquire a license as a primary management official if the licensee previously held a license as a key employee. This process may not be used by a non-gaming license holder to acquire a gaming license.

Section 11. Disclosure of Applicant and Licensee Information and Documents

11-1. The Gaming Commission may, consistent with its duties and responsibilities under the law and in an effort to preserve and enhance the integrity of tribal gaming, disclose Applicant and Licensee information, documents, photographs, records, and other material

1. To appropriate federal, Tribal, state, local or foreign law enforcement, and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions; or
2. Pursuant to a written request from a duly authorized agent of any agency of the United States or the Tribe in accordance with any applicable agreements with such other governmental agencies for the exchange or release of confidential information; and
3. If ordered to do so by a court of competent jurisdiction.

Disclosure is made by the Gaming Commission under the following circumstances:

- a. *National Indian Gaming Commission(NIGC).* The Gaming Commission is required to forward to the NIGC, an investigative report on each background investigation. An investigative report shall include: (1) steps taken in conducting a background investigation; (2) results obtained; (3) conclusions reached; and (4) basis for the conclusion. The Gaming Commission shall disclose to the NIGC the revocation of any gaming license and if that license is reinstated, disclose that as well.
- b. *Michigan Gaming Control Board.* Under Section 4 (L) of the Tribal-State Gaming Compact the Gaming Commission is required to provide representatives of the Michigan Gaming Control Board which background investigation information compiled by the Tribe on all management personnel and employees required to be licensed under the Tribe's gaming ordinance.
- c. *Third Parties; Law Enforcement Agencies; Regulators.* The Gaming Commission may disclose applicant and licensee information to third parties, law enforcement agencies, and regulatory bodies when authorized by, and in accordance with, the terms and conditions described in Section 5-5 of Chapter 1 - General Provisions of the Gaming Commission's Regulations (R400-04:GC-01).

Section 12. Suspension or Revocation of License.

12-1. *Temporary Suspension of License.*

- a. Any license may be temporarily suspended by the Gaming Commission for not more than 30 days if the Gaming Commission determines that any of the following have occurred:
 1. The licensee has been charged with a violation of any gaming law or regulation under applicable Tribal, state or federal law.
 2. The licensee has been charged with any other offense that may disqualify the licensee from holding a license under applicable Tribal law.
 3. The licensee has engaged in conduct that poses a threat to the integrity of gaming operations or to health, safety or welfare of the general public at the gaming enterprise.
 4. The licensee has knowingly made a material false and misleading statement in his license application.
 5. The licensee has participated in unauthorized gaming activity whether or not regulated by this ordinance.
 6. The licensee has refused to comply with any duty imposed on applicant/licensee under this regulation or any lawful order of the Gaming Commission, the Tribal Court or the National Indian Gaming Commission.
- b. Upon receipt by a Gaming Commission Agent of reliable information that a licensee has engaged in any of the conduct described in paragraph a., an investigation into the facts and circumstances shall be conducted, including interviewing persons with personal knowledge of such circumstances and/or obtaining documentary evidence that would confirm or refute the information alleged. The scope and timing of the investigation shall be determined by the Director commensurate with the complexity of the circumstances and the degree of risk to the integrity of gaming operations or to the health, safety and welfare of the public.
- c. Except as provided in Section 12-2, the regulatory agency shall only suspend a license after notice and hearing.
- d. In the event, following completion of the investigation, the Director determines that probable cause exists that one or more of the grounds exist warranting suspension of the license, the Director shall schedule a hearing and prepare a notice directed to the licensee requiring the licensee to appear before the Gaming Commission at a specified date and time to show cause why his license should not be suspended. The notice shall identify the witnesses whose testimony the Director would submit and summarize the facts and evidence the Director intends to present to demonstrate that cause exists to suspend the employee's license. The notice shall inform the employee that he has the right to present written documentation, testimony or other evidence to rebut the grounds specified in the notice or to present mitigating circumstances demonstrating that suspension of his license is not warranted or in the interests of the purposes of the Gaming Commission's regulatory purposes.
- f. If the investigation results indicate that the licensee no longer meets the qualifications for licensure in accordance with Section 6-1 or 6-2, the Director may, in his/her discretion, refer the licensee for a hearing to show cause why his license should not be revoked in accordance with Section 12-3.
- g. The hearing conducted to determine if the employee's license should be suspended, and any appeals from the Gaming Commission's determination following that hearing,

shall be conducted in accordance with Article 12 of the Gaming Ordinance and applicable regulations.

12-2. *Summary Suspension of License; Summary Suspension Pending Hearing to Revoke a License .*

a. Any license may be temporarily and immediately suspended by the Gaming Commission Director for not more than 30 days if reliable information is received that any of the following have occurred:

1. The licensee has been charged with a violation of any gaming law or regulation under applicable Tribal, state or federal law.
2. The licensee has been charged with any other offense that would disqualify the licensee from holding a license under applicable Tribal law.
3. The licensee has engaged in conduct that poses a threat to the integrity of gaming operations or to health, safety or welfare of the general public at the gaming enterprise.
4. The licensee has knowingly made a material false and misleading statement in his license application.
5. The licensee has participated in unauthorized gaming activity whether or not regulated by this ordinance.
6. The licensee has refused to comply with any lawful order of the regulatory agency, the Tribal Court or the National Indian Gaming Commission.

b. Upon receipt by a Gaming Commission Agent of reliable information that a licensee has engaged in any of the conduct described in paragraph a., an investigation into the facts and circumstances shall be conducted, including interviewing persons with personal knowledge of such circumstances and/or obtaining documentary evidence that would confirm or refute the information alleged. The scope and timing of the investigation shall be determined by the Director commensurate with the complexity of the circumstances and the degree of risk to the integrity of gaming operations or to the health, safety and welfare of the public.

c. In the event, following completion of the investigation, the Director determines that probable cause exists that a licensee no longer meets all or part of the requirements for licensure in accordance with Section 6-1 or 6-2, the Director will refer the licensee for a hearing to show cause why his license should not be revoked in accordance with section 12-3.

d. In the event, following completion of the investigation, the Director determines that the licensee's actions or circumstances present a direct and immediate threat to the integrity of the gaming enterprise or to the peace, safety, morals or health or welfare of the community, the Director shall issue a notice of summary suspension of a gaming license which shall be served upon the licensee and upon the general manager of the gaming enterprise. The Notice of Summary Suspension shall state the grounds upon which it is issued, including identification of witnesses whose testimony the Director would submit and summarizes the facts and evidence that the Director intends to present to demonstrate that cause exists to summarily suspend the employee's license. The notice shall inform the employee that he has the right to present written documentation, testimony or other evidence to rebut the grounds specified in the notice or to present mitigating circumstances demonstrating that revocation of his license is not warranted or in the interests of the purposes of the Gaming Commission's regulatory purposes. The licensee shall cease and desist as directed in the order upon receipt of the order. The Notice of

Summary Suspension shall notify the licensee of his right to request a hearing before the regulatory agency within (14) days and right to offer sworn oral and documentary evidence relevant to the grounds upon which the Summary Suspension was granted.

e. Upon written agreement of the licensee the hearing scheduled to be held for revocation of the gaming license may be moved to an earlier date in the event of an earlier conclusion to the investigation.

f. The licensee may file an immediate appeal with the Tribal Court on the decision to suspend a gaming license and the Tribal Court shall hear the appeal within 14 days of its receipt of the appeal.

12-3. *Revocation of Gaming License.*

a. Any gaming license may be revoked by the Gaming Commission if, following the hearing described in Section 12.04 of the Gaming Ordinance , the Gaming Commission finds that any of the following have occurred:

1. The licensee has violated any gaming law or regulation, or been convicted of, or pled guilty or no contest to or received a deferred sentence, an offense that would disqualify the licensee under Section 6-1 or 6-2.

2. The licensee has engaged in conduct that poses a threat to the integrity of gaming operations or to health, safety or welfare of the general public at the gaming enterprise.

3. The licensee willfully and intentionally made a material false and misleading statement in a license application.

4. The licensee participated in an unauthorized gaming activity whether or not regulated by this ordinance.

5. The licensee willfully and substantially refused to comply with any lawful order of the Gaming Commission, the Tribal Court or the National Indian Gaming Commission.

b. In the event the Director determines, following an investigation conducted pursuant to Section 12-1 or 12-2 that any licensee's actions or conduct disqualify the licensee from holding a license under Section 6-1 or 6-2, the Director shall schedule a hearing and prepare a notice directed to the licensee requiring the licensee to appear before the Gaming Commission at a specified date and time to show cause why his license should not be revoked. The notice shall identify the witnesses whose testimony the Director would submit and summarize the facts and evidence that Director intends to present to demonstrate that cause exists to revoke the employee's license. The notice shall inform the employee that he has the right to present written documentation, testimony or other evidence to rebut the grounds specified in the notice or to present mitigating circumstances demonstrating that revocation of his license is not warranted or in the interests of the purposes of the Gaming Commission's regulatory purposes.

c. The hearing conducted to determine if the employee's license should be revoked, and any appeals from the Gaming Commission's determination following that hearing, shall be conducted in accordance with Article 12 of the Gaming Ordinance and applicable regulations.